

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**S.O., Appellant**

**and**

**DEPARTMENT OF THE ARMY, U.S.  
MILITARY ACADEMY, West Point, NY,  
Employer**

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**Docket No. 21-1050  
Issued: January 21, 2022**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge

JANICE B. ASKIN, Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On July 2, 2021 appellant filed a timely appeal from a June 7, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has established carpal tunnel syndrome (CTS) and ulnar nerve palsy causally related to the accepted factors of her federal employment.

**FACTUAL HISTORY**

On March 1, 2021 appellant, then a 38-year-old chief cook, filed an occupational disease claim (Form CA-2) alleging that she developed CTS and ulnar nerve palsy due to factors of her

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

federal employment,<sup>2</sup> including repetitive use of her hands while preparing, plating, and serving large volumes of meals twice daily for 16 years. She reported worsening pain and numbness in her hands, as well as frequent difficulty maintaining her grip on items. Appellant reported that she first became aware of her condition on November 13, 2020 and of its relation to her federal employment on February 23, 2021.

On November 13, 2020 appellant underwent a computerized tomography (CT) scan of her right hand and wrist, which revealed mild polyarticular degenerative changes, intraosseous cystic changes throughout the carpal bones, predominantly in the capitate and hamate. A CT scan of appellant's left hand and wrist, of even date, revealed mild polyarticular degenerative changes, most prominent in the first carpometacarpal (CMC) joint, an ossific fragment along the ulnar side of the first CMC joint, and intraosseous cystic changes throughout the carpal bones, predominantly in the capitate and hamate.

In a February 22, 2021 referral note, Gina Cuneo-Ramos, a nurse practitioner, recounted that appellant worked as a cook for the employing establishment and reported pain and swelling in both hands and wrists. Ms. Cuneo-Ramos diagnosed bilateral swelling and pain in joints of the hands.

In a March 4, 2021 work excuse note, Ms. Cuneo-Ramos advised that appellant should remain out of work from March 4 through 18, 2021 for medical reasons.

OWCP also received appellant's Standard Form (SF)-50 and position description, which noted that appellant's employment duties included various cooking and food preparation tasks such as peeling, chopping, grinding, paring, cutting, slicing, dicing, pureeing, dredging, flouring, and breading, as well as operating and cleaning kitchen equipment.

In a development letter dated March 23, 2021, OWCP advised appellant of the deficiencies of her claim. It requested a narrative medical report from her treating physician, which contained a detailed description of findings and diagnoses, explaining how her work activities caused, contributed to, or aggravated her medical condition. OWCP afforded appellant 30 days to respond.

Appellant subsequently submitted a March 4, 2021 emergency room note signed by Dr. Joseph Kaczmarek, a Board-certified physician specializing in emergency medicine, relating appellant's work history and symptoms. She reported numbness and tingling in the thumb, index finger, and middle finger, as well as pain with use at home and at work. Dr. Kaczmarek diagnosed CTS.

On March 9, 2021 appellant underwent a nerve conduction velocity (NCV) study, which revealed abnormal findings.

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<sup>2</sup> The Board notes that, in her Application for Review (AB-1 Form), appellant reports she frequently worked shifts from 3:00 a.m. until 8:00 p.m. Appellant also recounts that she was sexually assaulted, ridiculed, and forced to work beyond her strength in her time working for the employing establishment. She notes that, as a result, she has developed not only CTS and ulnar nerve palsy, but also anxiety, depression, and post-traumatic stress disorder (PTSD). As these emotional conditions are not the subject of the current appeal and were not part of the record reviewed by OWCP, the Board will not address them on this appeal. *See* 20 C.F.R. § 501.2(c).

In a March 16, 2021 note, Dr. Patel related that appellant experienced hand paresthesia in both hands. He diagnosed bilateral CTS. Appellant was scheduled for a surgery on March 25, 2021.

In an April 7, 2021 letter, Dr. Patel reported that appellant was “doing well following the surgical release of the left carpal tunnel and left thumb trigger finger.” He further noted that, given the work that appellant described, these conditions are “most likely” attributable to the repetitive work. In a note dated April 8, 2021, Dr. Patel advised that appellant should be excused from work until her reevaluation on April 21, 2021.

On April 19, 2021 OWCP received an unsigned attending physician’s report (Form CA-20), affirmatively noting a history of preexisting injury, disease or physical impairment. Appellant reported having surgery on March 25, 2021.

In an April 21, 2021 referral order, Dr. Patel referred appellant to occupational therapy for 12 visits over six weeks. He again diagnosed of bilateral CTS and trigger finger of the left thumb. Dr. Patel provided appellant a work excuse note of even date.

By decision dated June 7, 2021, OWCP denied appellant’s occupational disease claim, finding that the evidence of record was insufficient to establish that her medical conditions were causally related to the accepted factors of her federal employment.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA,<sup>3</sup> that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>4</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or

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<sup>3</sup> *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.<sup>6</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>7</sup> A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.<sup>8</sup> Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).<sup>9</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish CTS and ulnar nerve palsy causally related to the accepted factors of her federal employment.

In his April 7, 2021 letter, Dr. Patel reported that appellant was "doing well following the surgical release of the left carpal tunnel and left thumb trigger finger." He further noted that, given the work that appellant described, these conditions are "most likely" attributable to the repetitive work. While he provided an affirmative opinion suggestive of causal relationship, Dr. Patel did not offer medical rationale sufficient to explain how appellant's employment duties resulted in or contributed to her diagnosed condition. Without identifying specific employment duties or explaining how they caused or aggravated appellant's conditions, Dr. Patel's letter is of limited probative value and is insufficient to meet appellant's burden of proof.<sup>10</sup>

In medical notes dated March 16 and April 21, 2021, Dr. Patel diagnosed CTS, ulnar nerve palsy, and trigger finger. Similarly, Dr. Kaczmarek's March 4, 2021 emergency room note related appellant's work history and symptoms and diagnosed CTS. However, neither Dr. Patel nor Dr. Kaczmarek offered an opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>11</sup> For these reasons, these reports are insufficient to meet appellant's burden of proof.

Appellant submitted a February 22, 2021 referral note and March 4, 2021 work excuse note from Ms. Cuneo-Ramos, a nurse practitioner. The Board has held that medical reports signed

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<sup>6</sup> *R.G.*, Docket No. 19-0233 (issued July 16, 2019). *See also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>7</sup> *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>8</sup> *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

<sup>9</sup> *Id.*; *Victor J. Woodhams*, *supra* note 6.

<sup>10</sup> *See A.P.*, Docket No. 19-0224 (issued July 11, 2019).

<sup>11</sup> *S.J.*, Docket No. 19-0696 (issued August 23, 2019); *M.C.*, Docket No. 18-0951 (issued January 7, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

solely by a physician assistant, registered nurse, or medical assistant are of no probative value as such healthcare providers are not considered physicians as defined under FECA and are, therefore, not competent to provide medical opinions.<sup>12</sup> Consequently, their medical findings and/or opinions will not suffice for the purpose of establishing entitlement to FECA benefits.

The remaining medical evidence consisted of a November 13, 2020 CT scans of appellant's hands and wrists and a March 9, 2021 NCV study. The Board has held, however, that diagnostic testing reports, standing alone, lack probative value on the issue of causal relationship as they do not address the relationship between the accepted employment factors and a diagnosed condition.<sup>13</sup> For this reason, this evidence is also insufficient to meet appellant's burden of proof.

As appellant has not submitted rationalized medical evidence establishing that her CTS and ulnar nerve palsy are causally related to the accepted factors of her federal employment, the Board finds that she has not met her burden of proof to establish her claim.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish CTS and ulnar nerve palsy causally related to the accepted factors of her federal employment.

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<sup>12</sup> Section 8101(2) of FECA provides that physician "includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law." 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *R.L.*, Docket No. 19-0440 (issued July 8, 2019) (nurse practitioners are not considered physicians under FECA); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA).

<sup>13</sup> *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 7, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 21, 2022  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board